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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

In re M.D., a Person Coming Under the  
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

M.D.,

Defendant and Appellant.

A135887

(San Francisco City & County  
Super. Ct. No. JW116241)

Defendant M.D. appeals from the juvenile court’s dispositional order continuing his wardship, continuing his probation conditioned on his successful completion of the Log Cabin Ranch School (LCRS) and stating the maximum confinement time is seven years four months. His appointed counsel on appeal has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), in which counsel raises no issue for appeal and asks this court for an independent review of the record. (See also *People v. Kelly* (2006) 40 Cal.4th 106 (*Kelly*)). Counsel has represented that defendant has been informed of his right to file a supplemental brief. We have received no such brief.

Having reviewed the entire record in accordance with *Wende* and *Kelly*, we agree no arguable issue exists on appeal. Accordingly, we affirm the juvenile court’s order.

## **BACKGROUND**

On September 27, 2011, the San Francisco District Attorney filed a four felony count juvenile wardship petition pursuant to Welfare and Institutions Code section 602, subdivision (a) alleging defendant had committed, on September 26, 2011: attempted second degree robbery (Pen. Code, §§ 212.5, subd. (c), 664) by attempting to take cameras and other personal property from the victim, Ning Ma; assault by means of force likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(1)); and unlawfully resisting, delaying and obstructing two police officers from attempting to perform the duties of their office (Pen. Code, § 148, subd. (a)(1)). The following day, September 28, 2011, the Probation Department submitted a detention hearing report stating Ma had been taking photographs about 6:00 in the evening when he was approached by four males. They grabbed Ma's camera, and a struggle ensued. Ma was thrown to the ground and punched in the head. He did not, however, let go of his camera, and the males ran off. A witness called police, described the incident and reported one of the males was wearing a turquoise, white and black plaid shirt. An officer hearing the broadcast description recalled seeing defendant wearing a similar shirt earlier in the day. When the officer spotted defendant carrying the shirt, he threw it down and ran. He was apprehended and the shirt recovered. The witness subsequently positively identified defendant.

The Probation Department also, on September 28, 2011, filed a petition to revoke defendant's probation in a prior wardship proceeding, on the ground he had violated the terms and conditions of his probation by having been arrested for a new offense, being in possession of marijuana, failing to comply with a 6:00 p.m. curfew, and had not participated in an anger management program. Defendant was detained at juvenile hall pending a motion for release scheduled for October 6, 2011.

On October 5, 2011, the district attorney filed a second wardship petition, alleging defendant, on September 7, 2011, committed one felony count of second degree robbery (Pen. Code, §§ 211, 212.5, subd. (c)) by taking a computer from the victim, Brian Kenny. The Probation Department filed a detention hearing report the same day stating the victim reported he had been subject to a "strong arm robbery" by three males. The victim

subsequently identified defendant and also confirmed that a security video tape had captured the incident.

On October 20, 2011, the court granted defendant's motion to sever his matters from those of his codefendants. On November 15, 2011, defendant moved for release to an individual with the Boys and Girls Shelter on 33rd Avenue. Counsel recounted that defendant had been raised in an abusive home, and had run away at the age of sixteen and then dropped through the cracks in the system after his first wardship petition was filed. The Probation Department opposed the motion on grounds of his prior criminal record and his failure to perform satisfactorily on probation. The court denied the motion for release and ordered a psychological examination.

On January 6, 2012, defendant entered into an agreed-to disposition in which he admitted the assault charge of the September 27, 2011, petition and the second degree robbery charge of the October 5, 2011 petition. All other counts of the September 27, 2011, petition to revoke were dismissed. Defendant was released to the shelter on home detention on numerous terms and conditions. On January 12, 2012, the Probation Officer filed an updated case plan for defendant, which addressed educational, counseling and therapeutic support services.

On March 5, 2012, the Probation Department filed its disposition report and recommendation. After reviewing defendant's case, the multi-disciplinary team recommended that defendant be committed to LCRS due to his criminal history and the fact he would receive counseling services and vocational training. The Probation Officer concurred in this recommendation, emphasizing the educational, training and counseling services defendant would receive, and that a sound after care program would also benefit him. Defendant failed to appear. On March 22, 2012, the Probation Department filed an updated report, reiterating its position that defendant should be committed to the LCRS and noting he had been absent from the shelter since February 11, 2012, and was arrested March 21, 2012.

The contested disposition hearing proceeded on June 6, 2012. Defendant called five witnesses to testify in support of his request that he be released to his aunt, who has a

bachelor's degree from Mills College and a Masters in Social Work from San Francisco State University. While the court recognized that the defendant's aunt and grandmother were committed to his rehabilitation, it concluded releasing him back to his relatives was not in his best interests or the public's interest. Defendant had "been out of control for a long time." He had already had the opportunity to go into a shelter, but had not changed his behaviors and committed additional, serious crimes. The court concluded LCRS provided the structure necessary for defendant to complete his GED and "hone his vocational skills in carpentry, forestry, automotive skills, [and] continue his weekly counseling and therapy." Accordingly, the court placed defendant on probation "on the condition that he successfully complete" LCRS and other conditions pertaining thereto, such as obeying all rules of LCRS, and general probation conditions. It also continued all prior orders not in conflict with the commitment. The court additionally specified defendant's maximum confinement time was seven years and four months.

#### **DISCUSSION**

A juvenile court's dispositional order may be reversed on appeal only upon a showing the court abused its discretion. " " "We must indulge all reasonable inferences to support the decision of the juvenile court and will not disturb its findings when there is substantial evidence to support them." ' [Citation.]" (*In re Robert H.* (2002) 96 Cal.App.4th 1317, 1330.)

Defendant was ably represented by counsel during the proceedings, including the dispositional hearing. The court correctly set the maximum term of confinement at seven years and four months. The court also acted well within its discretion in committing defendant to the LCRS given defendant's family background and current circumstances, his prior criminal history, the nature and seriousness of the current crimes he admitted, and the extent of the programs and services that will be provided to him at LCRS.

**DISPOSITION**

The dispositional order is affirmed.

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Banke, J.

We concur:

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Margulies, Acting P. J.

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Dondero, J.